

House Bill 1290 (AS PASSED HOUSE AND SENATE)

By: Representatives Hill of the 180th, Lewis of the 15th, Lane of the 167th, and Lane of the 158th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph services, so as to provide that the unauthorized sale or use of telephone records of a customer is unlawful and constitutes a felony; to provide a short title; to provide a penalty; to provide for certain exemptions including the actions of law enforcement agencies; to provide definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph services, is amended by adding a new Article 6 to read as follows:

"ARTICLE 6

46-5-200.

This article shall be known and may be cited as the 'Georgia Telephone Records Protection Act.'

46-5-201.

As used in this article, the term:

(1) 'Procure' means to obtain by any means, whether electronically or in writing or in oral form, with or without consideration.

(2) 'Telephone' means any device used by a person for voice communications in connection with the services of a voice service provider, whether such voice communications are transmitted in analog, data, or any other form.

(3) 'Telephone record' means information retained by a voice service provider that relates to a telephone number dialed by the customer or the incoming telephone numbers of calls directed to a customer or other data related to telephone calls typically contained on a customer telephone bill, such as the time the call started and ended, the duration of the call, the time of day the call was made, and any charges applied. For purposes of this article, any information collected and retained by, or on behalf of, customers utilizing caller identification or other similar technology does not constitute a telephone record.

(4) 'Voice service provider' means any person, firm, partnership, corporation, association, or municipal, county, or local governmental entity that provides telephone services to a customer, irrespective of the communications technology used to provide such service, including, but not limited to, traditional wireline or cable telephone service; cellular, broadband personal communications service, or other wireless telephone service; microwave, satellite, or other terrestrial telephone service; and voice over Internet protocol service.

46-5-202.

(a) It shall be a felony, punishable by a fine of not more than \$250,000.00, imprisonment for not more than ten years, or both, for a person to do any of the following acts:

(1) To knowingly procure, attempt to procure, solicit, or conspire with another to procure a telephone record of any resident or business of this state without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means;

(2) To knowingly sell, or attempt to sell, a telephone record of any resident or business of this state without the authorization of the customer to whom the record pertains; or

(3) To receive a telephone record of any resident or business of this state knowing that the record has been obtained without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means.

46-5-203.

No provision of this article shall be construed so as to prevent any action by a law enforcement agency or any officer or agent of the agency, under color of law, to obtain telephone records in connection with the performance of the official duties of the agency.

46-5-204.

(a) No provision of this article shall be construed to prohibit a voice service provider from obtaining, using, disclosing, or permitting access to any telephone record, either directly

1 or indirectly through its agents, vendors, or suppliers, in any of the following
2 circumstances:

3 (1) As otherwise authorized or permitted by law, including, but not limited to, the sharing
4 of the records with its affiliates or pursuant to the terms of an interconnection agreement
5 or other contractual agreement between voice service providers;

6 (2) With the consent or approval of the customer or subscriber;

7 (3) As may be reasonably incident to the rendition of the service or to the protection of
8 the rights or property of the provider of that service or to protect users of those services
9 and other carriers from fraudulent, abusive, or unlawful use of or subscription to the
10 services;

11 (4) To give access to a governmental entity, if the voice service provider reasonably
12 believes that an emergency involving immediate danger of death or serious physical
13 injury to any person justifies disclosure of the information;

14 (5) To give access to the National Center for Missing and Exploited Children, in
15 connection with a report submitted thereto under Section 227 of the federal Victims of
16 Child Abuse Act of 1990, 42 U.S.C. Section 13032; or

17 (6) Pursuant to a court order or pursuant to a subpoena, discovery request, or notice to
18 produce properly served by any party in a civil action, administrative proceeding, or
19 criminal proceeding.

20 (b) The provisions of this article shall not apply to a voice service provider, its employees,
21 agents, or representatives who reasonably and in good faith act pursuant to the provisions
22 of subsection (a) of this Code section, notwithstanding any later determination that the act
23 was not authorized.

24 46-5-205.

25 No private right of action is authorized pursuant to this article."

26 SECTION 2.

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval.

29 SECTION 3.

30 All laws and parts of laws in conflict with this Act are repealed.